



Delaware County Soil and Water Conservation District

44 West Street, Suite 1

Wallon, New York 13856

Phone 607-865-7161

FAX 607-865-5535

To: United States Environmental Protection Agency (EPA)

From: Richard Weidenbach, Executive Director

Date: November 8, 2010

Re: Comments on Draft Chesapeake Bay TMDL for New York State
Docket ID No. EPA-R03-OW-2010-0736

The Delaware County Soil and Water Conservation District strongly opposes the Draft Chesapeake Bay TMDL allocations for New York State as proposed by EPA. We provide the following comments:

- 1) The model used by EPA is subjectively flawed in the fact that it does not take into account realistic phosphorus and nitrogen values for New York State's agricultural land. EPA's "one size fits all" approach in assigning nitrogen and phosphorus values throughout the watershed is arbitrary and capricious. We strongly suggest that EPA collaborate with Cornell University in calibrating its model to achieve accurate and realistic nutrient values for New York State.
- 2) EPA is acting punitively in assigning the proposed TMDL values to New York State. In 2000, New York State's Governor and the 16 Conservation Districts in the Susquehanna watershed signed onto a multi-state agreement to voluntarily reduce its nutrient and sediment loading from the New York portion of the watershed. We have successfully worked hard with our agricultural community to reduce this loading, yet EPA has not credited New York for its reductions. At one public forum sponsored by the Upper Susquehanna Coalition of Soil and Water Conservation Districts, EPA's TMDL Manager inferred that crediting New York State for all its past loading reductions would be

“politically uncomfortable” for EPA. We find it appalling that a federal agency that should be acting scientifically is “knee deep” in regional politics. EPA’s conclusion not to credit New York State for its reductions, while other states did not or even increased their loading, is punitive. In fact, it sends a clear message to other regions around this country that are facing the possibility of a TMDL to continue to pollute until a regulatory action is taken. This disincentive approach by EPA threatens to undermine the many voluntary proactive approaches to pollution reductions that have been successful in many regions throughout the nation. We strongly suggest that EPA rethink its regulatory mindset to include reward and encouragement of voluntary efforts that achieve the same water quality objectives.

In closing, the waters leaving New York State via the Susquehanna River are clean; so clean that if every State’s waters were as clean, the Chesapeake Bay would not be impaired. The Upper Susquehanna Coalition of Conservation Districts has collaborated with the New York State DEC in developing a realistic Watershed Implementation Plan. This plan will achieve attainable and realistic reductions from agricultural sources which are contrary to EPA’s subjective reductions which will put farms out of business and cause irreversible harm to New York State’s agricultural economy.

New York State is and has been committed to improving the long term health of the Chesapeake Bay. New York State’s “track record” of nutrient reductions factually supports this claim. However, we cannot and will not support or be party to a regulatory approach that is subjective, arbitrary and unattainable. EPA needs to scientifically re-calibrate its model to reflect “real life” values and credit New York State for its notable and voluntary nutrient reductions it has achieved as a good neighbor before we will support and/or partake in any further efforts to achieve further nutrient reductions to the Chesapeake Bay.